

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

CADENCE PHARMACEUTICALS, INC. and  
SCR PHARMATOP,  
  
Plaintiffs,  
  
v.  
  
PADDOCK LABORATORIES, INC., PERRIGO  
COMPANY, PADDOCK LABORATORIES, LLC,  
EXELA PHARMA SCIENCES, LLC, EXELA  
PHARMSCI, INC., and EXELA HOLDINGS,  
INC.,  
  
Defendants.

**[PROPOSED] ORDER GRANTING DEFENDANTS'  
REQUEST FOR INTERNATIONAL JUDICIAL ASSISTANCE**

Defendants Paddock Laboratories, Inc., Perrigo Company, Paddock Laboratories, LLC, Exela Pharma Sciences, LLC, Exela Pharmasci, Inc., and Exela Holdings, Inc., (collectively “Defendants”), having moved the Court to issue the attached Request For International Judicial Assistance, so that they may obtain the testimony of Jehan-Yves Drouin and the production of documents by Bristol-Meyers Squibb France; and the Court having considered all papers submitted in support of Defendants’ motion, the Court hereby orders that the Motion is GRANTED.

SO ORDERED this            day of            2012.

UNITED STATES DISTRICT JUDGE

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

CADENCE PHARMACEUTICALS, INC. and  
SCR PHARMATOP,  
  
Plaintiffs,  
  
v.  
  
PADDOCK LABORATORIES, INC., PERRIGO  
COMPANY, PADDOCK LABORATORIES, LLC,  
EXELA PHARMA SCIENCES, LLC, EXELA  
PHARMSCI, INC., and EXELA HOLDINGS,  
INC.,  
  
Defendants.

## REQUEST FOR INTERNATIONAL JUDICIAL ASSISTANCE

The United States District Court for the District of Delaware respectfully requests international judicial assistance to obtain evidence pursuant to, and in conformity with, Chapter II, Articles 17, 18, and 21 of the Hague Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters, to be used in a civil proceeding now pending before this Court in the above captioned matter.

Based on the representations made by Plaintiffs Cadence Pharmaceuticals, Inc. and SCR Pharmatop and Defendants Paddock Laboratories, Inc., Perrigo Company, Paddock Laboratories, LLC, Exela Pharma Sciences, LLC, Exela Pharmasci, Inc., and Exela Holdings, Inc., this Court believes that Jehan-Yves Drouin has knowledge regarding material facts that are relevant for the proper prosecution of the above captioned case. This Court requests the assistance described herein:

1. ***Sender:*** Honorable Leonard P. Stark  
United States District Court for the  
District of Delaware  
844 North King St., Unit 18  
Wilmington, DE 19801-3570  
USA
2. ***Central Authority of the Requested State:*** Ministère de la Justice  
Direction des Affaires Civiles et du  
Sceau  
Bureau de l'entraide civile et  
commerciale internationale (D3)  
13 Place Vendome 75042  
Paris, Cedex 01, France
3. ***Person to whom the executed request is to be returned:*** Defendants' United States Legal  
Representative  
Richard L. Horwitz  
David E. Moore  
POTTER ANDERSON &  
CORROON, LLP  
1313 North Market Street  
P.O. Box 951  
Wilmington, DE 19899-0951  
Telephone: 302-984-6000  
Facsimile: 302-658-1192  
rhorwitz@potteranderson.com  
dmoore@potteranderson.com
4. ***Specification of the date by which the requesting authority requires receipt of the response to this request for taking of evidence by diplomatic officers, consular agents and commissioners:***  
  
***Date:*** September 30, 2012 or as soon as  
practical before  
  
***Reason for urgency:*** Testimony from Jehan-Yves Drouin of  
Bristol-Myers Squibb France is  
necessary because he has knowledge  
and information pertinent to the issues  
in the patent litigation in the District  
Court for the District of Delaware.

***IN CONFORMITY WITH ARTICLE 3 OF THE CONVENTION, THE  
UNDERSIGNED APPLICANT HAS THE HONOUR TO SUBMIT THE  
FOLLOWING REQUEST:***

5.            *a) Requesting judicial authority:*            Honorable Leonard P. Stark  
United States District Court for the  
District of Delaware  
844 North King St, Unit 18  
Wilmington, DE 19801-3570  
USA
- b) To the competent authority of:*            Ministère de la Justice  
Direction des Affaires Civiles et du  
Sceau  
Bureau de l'entraide civile et  
commerciale internationale (D3)  
13 Place Vendome 75042  
Paris, Cedex 01, France
- c) Names of the case and any  
identifying number:*            *Cadence Pharmaceuticals Inc. et al. v.  
Paddock Laboratories et al., Civil  
Action 1:11-cv-00733-LPS*
6.            *Names and addresses of the parties  
and their representatives (including  
representatives in the requested  
State):*
- a) Plaintiff:*            See Attachment A: List of Plaintiffs  
and Representatives for Plaintiffs.
- Representatives:*            See Attachment A.
- b) Defendant:*            See Attachment B: List of Defendants  
and Representatives for Defendants.
- Representatives:*            See Attachment B.
- c) Other parties' Representatives:*            None
7.            *a) Nature of proceedings (divorce,  
paternity, breach of contract, product  
liability, etc.):*            The nature of the proceedings for  
which the evidence is requested  
concerns a civil patent infringement  
lawsuit based upon a complaint filed  
by Plaintiffs on August 18, 2011.
- b) Summary of complaint:*            Plaintiffs have alleged that Defendants  
infringe the claims of U.S. Patent Nos.  
6,028,222 and 6,992,218 based upon

each Defendant's submission of an abbreviated new drug application seeking approval to make, market and sell generic versions of Cadence's Ofirmev® intravenous acetaminophen.

***c) Summary of defence and counterclaim:***

The defenses offered are that the claims of U.S. Patent Nos. 6,028,222 and 6,992,218 are invalid or would not be infringed under U.S. law by the Defendants.

***d) Other necessary information or documents:***

None

8. ***a) Evidence to be obtained or other judicial act to be performed:***

It is respectfully requested that a judicial authority of the French Republic order the individual identified in item 9 to provide testimony as described in Attachment C, related to the '222 and '218 patents.

***b) Purpose of the evidence or judicial act sought:***

Plaintiffs seek to obtain evidence relating to U.S. Patent Nos. 6,028,222 and 6,992,218 that may be pertinent to pursue or respond to the charges set forth in Plaintiffs' complaint of patent infringement as well as the Defendants' defenses and counterclaims (e.g., invalidity and noninfringement).

9. ***Identify and address of any person to be examined:***

Jehan-Yves Drouin  
BMS France  
3, rue Joseph Monier  
BP 325  
92506 Rueil-Malmaison Cedex  
France

10. ***Questions to be put to the persons to be examined or statement of the subject-matter about which they are to be examined:***

Defendants seek to depose Jehan-Yves Drouin about the topics described in Attachment C.

11. ***Documents or other property to be inspected:*** Defendants seek documents from Jehan-Yves Drouin and BMS France as described in Attachment D.
12. ***Any requirement that the evidence be given on oath or affirmation and any special form to be used:*** It is respectfully requested that an examiner or other appropriate judicial officer of the French Republic direct that the witness be duly sworn in accordance with the applicable procedures of France, and that the testimony be taken and transcribed by a qualified court reporter and videographer chosen by Plaintiffs' representatives. It is further requested that the transcription of the deposition be in the English language if allowable under the local law.
13. ***Special methods or procedure to be followed (e.g. oral or in writing, verbatim, transcript or summary, cross-examination, etc.):*** It is requested that the deposition be oral, in the English-language (with translators, if necessary), and conducted in person by representatives for the named Plaintiffs in the above identified patent litigation in the District Court for the District of Delaware. A verbatim transcript of the deposition that has been reviewed and signed by the deponent will be required.
14. ***Request for notification of the time and place for the execution of the Request and identity and address of any person to be notified:*** Defendants c/o their representatives and counsel, as identified in Attachment A.
15. ***Request for attendance or participation of judicial personnel of the requesting authority at the execution of this request:*** None
16. ***Specification of privilege or duty to refuse to give evidence under the law of the State of origin:*** The witness may refuse to give evidence only insofar as he or she has a privilege or duty to refuse to give evidence under the laws of the United States or the laws of the French Republic.

17. ***The fees and costs incurred which are reimbursable under the second paragraph of Article 14 or under Article 26 of the Convention will be borne by:*** Defendants c/o their representatives and counsel, as identified in Attachment A.

18. ***Date of Request:*** \_\_\_\_\_, 2012

19. ***Signature of the Requesting Authority:*** \_\_\_\_\_  
Honorable Leonard P. Stark,  
Judge, United States District Court  
for the District of Delaware

**ATTACHMENT A: List of  
Representatives for Plaintiffs**

**Plaintiff:**      **Cadence Pharmaceuticals, Inc.,  
12481 High Bluff Drive, Suite 200  
San Diego, California, 92130 USA**

**Represented By:**  
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**Plaintiff:**      **SCR Pharmatop,  
10 Square St. Florentin 78150  
Le Chesnay, France**

**Represented By:**  
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**HOLLAND & KNIGHT LLP**  
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**ATTACHMENT B: List of Defendants and Representatives for Defendants**

**Defendants: Paddock Laboratories, Inc.; Perrigo Company; and  
Paddock Laboratories, LLC  
515 Eastern Avenue  
Allegan, Michigan 49010 USA**

**Represented By:**

Jeffrey S. Ward  
Edward J. Pardon  
Wendy M. Ward  
Shane A. Brunner  
Joel F. Graham  
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Richard L. Horwitz  
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Facsimile: 302-658-1192  
rhorwitz@potteranderson.com  
dmoore@potteranderson.com

**Defendants: Exela Pharma Sciences, LLC; Exela PharmSci, Inc.; and  
Exela Holdings, Inc.  
1325 William White Place  
Lenoir, North Carolina 28645 USA**

**Represented By:**

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**ATTACHMENT C**

**TOPICS FOR DEPOSITION OF JEHAN-YVES DROUIN**

1. Any problems with prior art injectable acetaminophen solutions and methods of infusing them.
2. The reasons for the commercial success or lack of commercial success of Perfalgan.
3. Any long felt need in the marketplace satisfied by Perfalgan.
4. The failure or success of others to develop an acetaminophen solution for injection.
5. Bristol Meyers Squibb – France’s (“BMS”) sales and marketing plans for Perfalgan.
6. BMS’s sales of and profits from Perfalgan from 2001-2011
7. Products that compete with Perfalgan in European market, including the market shares for Perfalgan and those competitive products from 2001-2011.
8. BMS’s Perfalgan customers from 2001-2011.
9. Stability testing of registration, validation and commercial batches of Perfalgan.
10. The presence, identification and analysis of any visible particles in any registration, validation and/or commercial batches of Perfalgan.
11. The relationship between UPSA and BMS.
12. Royalties received or paid by BMS for licenses relating to the Patents.
13. The development of Perfalgan in a bag and in a glass vial.
14. BMS’s decision to not market IV APAP for the US.
15. BMS’s decision to license IV APAP in the US.
16. BMS’s decision not to license IV APAP in the US to other companies, including McNeil.

**ATTACHMENT D**

**DOCUMENTS REQUESTED FROM JEHAN-YVES DROUIN AND BMS FRANCE**

1. Documents relating to the BMS's profits and/or losses for Perfalgan from 2001 – 2011, including all Perfalgan profit and loss statements from that time.
2. Documents showing BMS's sales of Perfalgan from 2001 – 2011 in units and currency.
3. BMS's marketing and business plans for Perfalgan from 2001-2011.
4. Licenses and other documents relating to negotiations of licenses relating to the Patents or Perfalgan.
5. Documents relating to any long-felt need in the European market satisfied by Perfalgan.
6. Documents relating to stability data from any registration, validation or commercial batches of Perfalgan.
7. Documents demonstrating the failure or success of others in developing an acetaminophen for injection product.
8. Documents relating to analyses of the Perfalgan market and/or products that compete with Perfalgan, including market share data from 2001 – 2011.
9. Documents showing BMS's Perfalgan customers from 2001 – 2011.
10. Any documents not yet produced to Defendants that Plaintiffs intend to use at Mr. Drouin's deposition.